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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/773,894 | 02/06/2004 | David J. Edmondson | 1643.104 | 8329 |
| 52529 | 7590 | 10/06/2005 | | |
| SCHEEF & STONE, L.L.P. 5956 SHERRY LANE SUITE 1400 DALLAS, TX 75225 | | | EXAMINER NELSON, FREDA ANN | |
| | | | ART UNIT 3639 | PAPER NUMBER |

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,894

Applicant(s)

EDMONDSON ET AL.

Examiner

Freda A. Nelson

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) 2, 4 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to a letter for a patent filed February 06, 2004 in which claims 1-20 were presented for examination. Claims 1-20 are pending.

Claim Objections

1. Claim 2 is objected to because of the following informalities:

Claim 2, line 2, "eachof" should be "each of";

Claim 4, line 2, "associatro" should be "associator";

Claim 7, line 3, "content" should be removed; and

Claim 7, line 4, "comprise" should be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Eglan et al. (US PG Pub. 2003/0023505).

In claims 1 and 7-8, Eglan et al. disclose that in an initial time period ($t=1$), an initial price for an item is set; wherein for example, the initial price of a song could be set to 90.cent (\$0.90), depending on whatever the content supplier and/or the administrator using administrative computer 104 believes is appropriate and in this particular example, $P_{sub.1} = \$0.90$; and in the second time period ($t=2$), the processor 110 of the dynamic pricing system 102 changes the price in order to get a sample of the change in client demand at a differing price levels (paragraph 0099); and the system dynamically adjusts pricing of the media content and delivers the media content to the clients that order the media content at a dynamically adjusted price (abstract); and during initialization of the dynamic pricing system 102, a song is loaded from the master file server 214 onto the second music server 220b, which becomes the "home" music

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server 220 for this particular song and as the song becomes popular, the second music server 220b can place a copy of the file containing the song onto the first music server 220a so as to optimize performance of the dynamic pricing system 102; and all requests for the song are initially placed with the "home" music server 220, which is the second music server 220b in this example, and if the second, home music server 220b is unable to process a request for the song, the second music server 220b redirects the request to one of the other music servers 220 that has a copy of the song, which in this case is the first music server 220a (paragraph 0058).

In claim 2, Eglan et al. disclose that the music databases 230 can store the file name of a song, the location of the file on the home music server 220, song title, artist, author, producer, distributor (label), album name, album picture, picture of the artist, musical category (i.e. rock, jazz . . .), description, comments, pricing information, demand information, and/or length/size of the song along with other information relating to the song (paragraph 0060).

In claim 3, Eglan et al. disclose a media ID field 318 for storing a unique identifier for an item; a media name field 320, which for example stores the name of the movie, song, program, etc.; an artist/author name field 322 in which the name of the artist is identified; and an artist ID field 324 which contains a unique identifier for individual artists on the dynamic pricing system 102; and in FIG. 3, asterisked ("*") fields in the tables 302 are the fields by which the individual tables 302 are indexed. For instance, the media information table 304 is indexed by the media ID field 318 (paragraph 0063; FIG. 3).

In claims 4-6, Eglan et al. disclose that pricing algorithm parameters field 352 can store information such as the historical pricing and quantity ordered information for the item (paragraph 0064); and alternatively or additionally, the dynamic pricing system 102 in this and other embodiments can automatically set the initial price based on default prices and/or historical prices for similar content stored in memory 112 (paragraph 0123).

In claims 9-13, Eglan et al. disclose that the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases and in one form, the dynamic pricing modifier is based on the differences between the quantity ordered at specific intervals wherein, for instance, these intervals can be by second, by minute, hourly, daily, monthly, or yearly; and in another form, the dynamic pricing modifier is based on the time between successive purchases; for example, if the time delay between successive purchases decreases, the dynamic pricing system 102 can infer that demand is increasing and thus increase the price for the item (paragraph 0122).

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In claim 14, Eglan et al. disclose that the owner of the dynamic pricing system 102 generates revenue by receiving a portion of the revenue generated by the sale of items on the dynamic pricing system 102 (paragraph 0158; FIG. 30E and FIG. 31).

In claims 15 and 19, Eglan et al. disclose that in an initial time period ($t=1$), an initial price for an item is set; wherein for example, the initial price of a song could be set to 90.cent (\$0.90), depending on whatever the content supplier and/or the administrator using administrative computer 104 believes is appropriate and in this particular example, $P_{sub.1} = \$0.90$; and in the second time period ($t=2$), the processor 110 of the dynamic pricing system 102 changes the price in order to get a sample of the change in client demand at a differing price levels (paragraph 0099); and the system dynamically adjusts pricing of the media content and delivers the media content to the clients that order the media content at a dynamically adjusted price (abstract).

In claim 16, Eglan et al. disclose that the music databases 230 can store the file name of a song, the location of the file on the home music server 220, song title, artist, author, producer, distributor (label), album name, album picture, picture of the artist, musical category (i.e. rock, jazz . . .), description, comments, pricing information, demand information, and/or length/size of the song along with other information relating to the song (paragraph 0060).

In claim 17, Eglan et al. disclose a media ID field 318 for storing a unique identifier for an item; a media name field 320, which for example stores the name of the movie, song, program, etc.; an artist/author name field 322 in which the name of the artist is identified; and an artist ID field 324 which contains a unique identifier for individual artists on the dynamic pricing system 102; and in FIG. 3, asterisked ("*") fields in the tables 302 are the fields by which the individual tables 302 are indexed. For instance, the media information table 304 is indexed by the media ID field 318 (paragraph 0063; FIG. 3).

In claim 18, Eglan et al. disclose that with customer devices 124, consumers can purchase and download content from the dynamic pricing system 102 wherein consumers can view, listen to and/or interact with the content they purchased with customer devices 124; and for example, when the customer device 124 is a personal computer, the personal computer can be used to store compressed digital media musical content, such as MP3 files and the personal computer then can be used to play, store, and/or "burn" CDs with music from the MP3 files (paragraph 0053).

In claim 20, Eglan et al. disclose that the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases and in one form, the dynamic pricing modifier is based on the differences between the quantity ordered at specific intervals wherein, for instance, these intervals can be by second, by minute, hourly, daily, monthly, or yearly; and in another form, the dynamic pricing modifier is based on the time between

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successive purchases; for example, if the time delay between successive purchases decreases, the dynamic pricing system 102 can infer that demand is increasing and thus increase the price for the item (paragraph 0122).

Conclusion

3. The examiner has cited prior art of interest, for example:

1) Aggarwal et al. (Patent Number 6,631,413), which disclose a method for optimizing profits in electronic delivery of digital objects.

2) Mayo (Patent Number 6,678,663), which disclose a transaction system and methodology with inter-party communications capability

3) Phillips et al. (US PG Pub. 2002/0116348), which disclose a dynamic pricing system.

4) Woolston et al. (Patent Number 6,856,967), which disclose generating and navigating streaming dynamic pricing information.

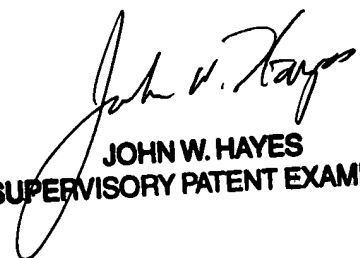
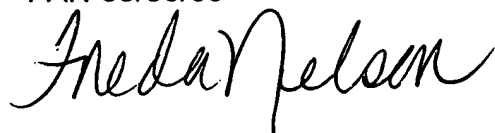
5) "RSA Encryption Technology Helps TechWave to Deliver Secure, Flexible and Scalable Solutions for Selling and Downloading Software and Other Digital Content over the Internet", Feb. 10, 1998, PR Newswire. New York: pg. 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 09/30/05



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER